

LSK&D #: 255-2307 / 4864-2954-5987

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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AGNES LOUIS,

Plaintiff,

-against-

Docket No.:

PETITION OF REMOVAL

MACY'S INC., MACY'S RETAIL HOLDINGS,
LLC, and MACY'S EAST, INC.,

Defendants.

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**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

The petition of removal of defendants, MACY'S, INC. s/h/a MACY'S INC., MACY'S RETAIL HOLDINGS, LLC and MACY'S EAST, INC., by their attorneys, LESTER SCHWAB KATZ & DWYER, LLP state:

1. On or about July 9, 2021, a civil action was commenced by the plaintiff against the defendants in New York State Supreme Court, Kings County, under Index Number 517009/2021, entitled *Agnes Louis v. Macy's Inc., Macy's Retail Holdings, Inc., and Macy's East, Inc.*, by filing a Complaint. (Exhibit "A").

2. Defendants filed an Answer to the Complaint on September 8, 2021. (Exhibit "B").

3. Thereafter, on September 22, 2021, plaintiff's counsel filed an Amended Summons amending the caption to note as a defendant, Macy's Retail Holdings, LLC, in place of Macy's Retail Holdings, Inc. (Exhibit "C").

4. Although the citizenship of the parties is completely diverse under 28 U.S.C. section 1332(a) as stated below, and the defendants are not citizens of the State of New York, the

action was not removable pursuant to 28 U.S.C. section 1441 *et seq.*, upon commencement because the complaint did not demand a specific amount for damages, consistent with C.P.L.R. 3017(c).

5. Plaintiff, Agnes Louis, at the time this action was commenced and is now a citizen of the State of New York, residing at 522 Jefferson Avenue, Brooklyn, New York 11221. (Exhibit “A” and “D”).

6. Defendant, Macy’s, Inc., was at the time this action was commenced, was and still is a foreign business corporation incorporated in the State of Delaware, with its principal place of business located at 7 West 7th Street, Cincinnati, Ohio 45202.

7. Defendant, Macy’s Retail Holdings, LLC, was at the time this action was commenced, was and still is a foreign limited liability company, formed in the State of Ohio, with its principal place of business located at 7 West 7th Street, Cincinnati, Ohio 45202.

8. Defendant, Macy’s East, Inc., was a foreign business corporation, incorporated in the State of Ohio, with its principal place of business located at 7 West 7th Street, Cincinnati, Ohio 45202, prior to becoming inactive on January 28, 2006.

9. This case was not “removable” to Federal Court until the plaintiff’s counsel responded to defendants’ Combined Discovery Demands on October 18, 2021, wherein plaintiff alleged damages in the amount of \$1,000,000.00. (Exhibit “D”). This petition of removal is timely because it is filed within thirty days of defense counsel’s receipt of plaintiff’s response to the demand for damages and less than one year has elapsed since the action was commenced, consistent with 28 U.S.C. section 1446(c)(1).

WHEREFORE, Petitioners, MACY’S, INC. s/h/a MACY’S INC., MACY’S RETAIL HOLDINGS, LLC, and MACY’S EAST, INC., apply that this action now pending against them in New York State Supreme Court, County of Kings, be removed from that venue to this Court.

Dated: New York, New York
November 15, 2021

Respectfully submitted

LESTER SCHWAB KATZ & DWYER, LLP

Robyn J. Leader

Robyn J. Leader
Attorneys for Defendants
MACY'S, INC. s/h/a MACY'S INC., MACY'S
RETAIL HOLDINGS, LLC and MACY'S EAST, INC.
100 Wall Street
New York, New York 10005
(212) 964-6611

TO:

Vincent I. Eke-Nweke, Esq.
Law Office of Vincent I. Eke-Nweke, P.C.
498 Atlantic Avenue
Brooklyn, New York 11217
Attorneys for Plaintiff
(718) 852-8300
e-mail: vekenweke@aol.com